

Message Text

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ORIGIN OES-05

INFO OCT-01 AF-06 ARA-10 EUR-12 EA-09 NEA-10 IO-11 ISO-00

ACDA-10 CIAE-00 INR-07 L-03 NSAE-00 NSC-05 EB-07

NRC-07 FEAE-00 DODE-00 SS-15 INRE-00 SSO-00 NSCE-00

COME-00 ERDA-07 ERDE-00 TRSE-00 USIE-00 PM-04 H-02

PA-02 PRS-01 SP-02 /136 R

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NEA/EX - C. POLLEY

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FM SECSTATE WASHDC

TO AMEMBASSY VIENNA IMMEDIATE

AMEMBASSY BRUSSELS

AMEMBASSY OTTAWA

AMEMBASSY COPENHAGEN

AMEMBASSY BONN

AMEMBASSY DUBLIN

AMEMBASSY ROME

AMEMBASSY TOKYO

AMEMBASSY LUXEMBOURG

AMEMBASSY THE HAGUE

AMEMBASSY WELLINGTON

AMEMBASSY OSLO

AMEMBASSY MADRID

AMEMBASSY STOCKHOLM

AMEMBASSY BERN

AMEMBASSY ANKARA

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BUENOS AIRES

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AMEMBASSY CANBERRA

AMCONSUL RIO DE JANEIRO
AMEMBASSY TAIPEI
AMEMBASSY ATHENS
AMEMBASSY NEW DELHI
AMEMBASSY TEHRAN
AMEMBASSY TEL AVIV
AMEMBASSY SEOUL
AMEMBASSY MANILA
AMEMBASSY LISBON
AMEMBASSY PRETORIA
AMEMBASSY BANGKOK
AMEMBASSY CARACAS
USMISSION IAEA VIENNA
USMISSION EC BRUSSELS
AMEMBASSY BRASILIA

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EO. 11652: N/A

TAGS: TECH

SUBJECT:"EXECUTIVE ORDER 11902 - PROCEDURES FOR AN EXPORT
LICENSING POLICY AS TO NUCLEAR MATERIALS AND
EQUIPMENT", DATED FEBRUARY 2, 1976

1. FOLLOWING IS TEXT OF SUBJECT E. O.

QUOTE. THE ENERGY REORGANIZATION ACT OF 1974 TRANSFERRED
TO THE UNITED STATES NUCLEAR REGULATORY COMMISSION THE
LICENSING AND RELATED REGULATORY FUNCTIONS PREVIOUSLY
EXERCISED BY THE ATOMIC ENERGY COMMISSION UNDER THE
ATOMIC ENERGY ACT OF 1954, AS AMENDED.

THE EXERCISE OF DISCRETION AND CONTROL OVER NUCLEAR EXPORTS
WITHIN THE LIMITS OF LAW CONCERNS THE AUTHORITY AND
RESPONSIBILITY OF THE PRESIDENT WITH RESPECT TO THE
CONDUCT OF FOREIGN POLICY AND THE ENSURING OF THE COMMON
DEFENSE AND SECURITY.

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IT IS ESSENTIAL THAT THE EXECUTIVE BRANCH INFORM THE
NUCLEAR REGULATORY COMMISSION OF ITS VIEWS BEFORE THE
COMMISSION ISSUES OR DENIES A LICENSE, OR GRANTS AN
EXEMPTION.

NOW, THEREFORE, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY
THE CONSTITUTION AND STATUTES OF THE UNITED STATES OF
AMERICA, INCLUDING THE ATOMIC ENERGY ACT OF 1954, AS

AMENDED (42 U.S.C. 2011 ET SEQ.), AND AS PRESIDENT OF THE UNITED STATES OF AMERICA, IT IS HEREBY ORDERED AS FOLLOWS:

SECTION 1.(A) THE SECRETARY OF STATE IS DESIGNATED TO RECEIVE FROM THE NUCLEAR REGULATORY COMMISSION A COPY OF EACH EXPORT LICENSE APPLICATION, EACH PROPOSAL BY THE NUCLEAR REGULATORY COMMISSION TO ISSUE A GENERAL LICENSE FOR EXPORT, AND EACH PROPOSAL BY THE NUCLEAR REGULATORY COMMISSION FOR EXEMPTION FROM THE REQUIREMENT FOR A LICENSE, WHICH MAY INVOLVE A DETERMINATION, PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, THAT THE ISSUANCE OF THE LICENSE OR EXEMPTION FROM THE REQUIREMENT FOR A LICENSE WILL, OR WILL NOT, BE INIMICAL TO OR CONSTITUTE AN UNREASONABLE RISK TO THE COMMON DEFENSE AND SECURITY.

-- (B) THE SECRETARY OF STATE SHALL ENSURE THAT A COPY OF EACH SUCH APPLICATION, PROPOSED GENERAL LICENSE, OR PROPOSED EXEMPTION IS RECEIVED BY THE SECRETARY OF DEFENSE, THE SECRETARY OF COMMERCE, THE ADMINISTRATOR OF THE UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, HEREINAFTER REFERRED TO AS THE ADMINISTRATOR, THE DIRECTOR OF THE ARMS CONTROL AND DISARMAMENT AGENCY, HEREINAFTER REFERRED TO AS THE DIRECTOR, AND THE HEAD OF ANY OTHER DEPARTMENT OR AGENCY WHICH MAY HAVE AN INTEREST THEREIN, IN ORDER TO AFFORD THEM THE OPPORTUNITY TO EXPRESS THEIR VIEWS, IF ANY, ON WHETHER THE LICENSE SHOULD BE ISSUED OR THE EXEMPTION GRANTED.

SEC. 2. WITHIN THIRTY DAYS OF RECEIPT OF A COPY OF A LICENSE APPLICATION, PROPOSED GENERAL LICENSE, OR PROPOSED EXEMPTION, THE SECRETARY OF DEFENSE, THE SECRETARY OF COMMERCE, THE ADMINISTRATOR, THE DIRECTOR, AND THE HEAD
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OF ANY OTHER AGENCY OR DEPARTMENT TO WHICH SUCH COPY HAS BEEN TRANSMITTED, SHALL EACH TRANSMIT TO THE SECRETARY OF STATE HIS VIEWS, IF ANY, ON WHETHER AND UNDER WHAT CONDITIONS THE LICENSE SHOULD BE ISSUED OR THE EXEMPTION GRANTED.

SEC. 3. THE SECRETARY OF STATE SHALL, AFTER THE PROVISIONS OF SECTION 2 OF THIS ORDER HAVE BEEN COMPLIED WITH, TRANSMIT TO THE SECRETARY OF DEFENSE, THE SECRETARY OF COMMERCE, THE ADMINISTRATOR, THE DIRECTOR, AND THE HEAD OF ANY OTHER DEPARTMENT OR AGENCY WHO HAS EXPRESSED

HIS VIEWS THEREON, A PROPOSED POSITION OF THE EXECUTIVE BRANCH AS TO WHETHER THE LICENSE SHOULD BE ISSUED OR THE EXEMPTION GRANTED, INCLUDING A PROPOSED JUDGMENT AS TO

WHETHER ISSUANCE OF THE LICENSE OR GRANTING OF THE EXEMPTION WILL, OR WILL NOT, BE INIMICAL TO OR CONSTITUTE AN UNREASONABLE RISK TO THE COMMON DEFENSE AND SECURITY.

SEC. 4. IF THE HEADS OF DEPARTMENTS AND AGENCIES SPECIFIED IN SECTION 2 OF THIS ORDER ARE UNABLE TO AGREE UPON A POSITION FOR THE EXECUTIVE BRANCH, THE SECRETARY OF STATE SHALL REFER THE MATTER TO THE CHAIRMAN OF THE UNDER SECRETARIES COMMITTEE OF THE NATIONAL SECURITY COUNCIL IN ORDER TO OBTAIN A DECISION. IN THE EVENT THE UNDER SECRETARIES COMMITTEE IS UNABLE TO REACH A DECISION, THE CHAIRMAN OF THAT COMMITTEE SHALL REFER THE MATTER TO THE PRESIDENT FOR HIS DECISION.

SEC. 5. THE SECRETARY OF STATE, AFTER TAKING THE ACTIONS REQUIRED BY THIS ORDER, SHALL NOTIFY THE NUCLEAR REGULATORY COMMISSION OF THE POSITION OF THE EXECUTIVE BRANCH AS TO WHETHER THE LICENSE SHOULD BE ISSUED OR THE EXEMPTION GRANTED, INCLUDING THE JUDGMENT OF THE EXECUTIVE BRANCH AS TO WHETHER ISSUANCE OF THE LICENSE OR GRANTING OF THE EXEMPTION WILL, OR WILL NOT, BE INIMICAL TO OR CONSTITUTE AN UNREASONABLE RISK TO THE COMMON DEFENSE AND SECURITY. THE EXECUTIVE BRANCH POSITION SHALL BE SUPPORTED BY RELEVANT INFORMATION AND DOCUMENTATION AS APPROPRIATE TO THE PROCEEDINGS BEFORE THE NUCLEAR REGULATORY COMMISSION. END QUOTE.
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2. THE DEPARTMENT NOTES THAT THE ABOVE EXECUTIVE ORDER DOES NOT INVOLVE MAJOR CHANGES IN EXISTING EXECUTIVE BRANCH EXPORT LICENSING ANALYSIS AND RECOMMENDATIONS TO NRC. ALTHOUGH IT WILL INVOLVE MINOR PROCEDURAL CHANGES, THE DEPARTMENT DOES NOT FORESEE ANY IMPACT ON THE TIME REQUIRED FOR PROCESSING INDIVIDUAL EXPORT LICENSE APPLICATIONS. KISSINGER

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